

WILLIAM R. CURTIS

IBLA 78-459, 78-461

Decided October 3, 1978

Appeals from decisions of California State Office, Bureau of Land Management, rejecting drawing entry card oil and gas lease offers CA 5029 and CA 5097.

Affirmed.

1. Oil and Gas Leases: Applications: Sole Party in Interest

Where an oil and gas lease offer filed on a drawing entry card in a simultaneous filing procedure contains the name of an additional party in interest and the statement of interest, copy, or explanation of the agreement between the parties, and evidence of the qualifications of the additional party are not filed within the time required by 43 CFR 3102.7, the offer must be rejected.

APPEARANCES: William R. Curtis, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

William R. Curtis has appealed from separate decisions of the California State Office, Bureau of Land Management, which rejected the first drawn card (DEC) for Parcel CA 35 (lease offer CA 5029) in the March 1978 simultaneous oil and gas leasing program, and for Parcel CA 44 (lease offer CA 5097) in the April 1978 simultaneous filing program, for the reason that each DEC named other parties in interest and the statements required by 43 CFR 3102.7 were not filed within 15 days after filing of the lease offer. 1/ Because

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1/ The DEC for Parcel CA 35 named William R. Curtis and Michael Mericantante as applicants, and Chuck Schwartzberg as a party in interest. The DEC for Parcel CA 44 named William R. Curtis and David A. Grindahl as applicants, and Chuck Drinkhouse and David E. Jarvis as other parties in interest. No person other than William R. Curtis is named in the appeal.

of the similarity of issues, the appeals will be consolidated for consideration.

Appellant states these reasons for appeal as to offer CA 5029:

To Whom It May Concern:

I am filing an appeal on Number CA 5029 3112-A (C-943.2) because of the reasons stated below:

1. On March 27th, 1978, I sent a letter to BLM in Riverside stating that Mr. Chuck Schwartzberg was not interested in the filing cards that I sent in. (Letter enclosed.)
2. The letter was sent to 1414 University Ave. in Riverside, Calif. (copy of telephone directory enclosed dated April, 1977) showing address and phone number of BLM.
3. The reason for sending the letter to Riverside and not to Sacramento was that I assumed they would have all letters sent to the correct department, as I did not have this knowledge.
4. Since regulations [sic] 43 CFR 3102.7 states that if any parties are interested, that a separate statement must be filed 15 days after the filing of the lease offer, and since the parties were not interested, then I don't feel that a written statement should have been filed.
5. Since a letter was sent to indicate no other parties were interested at a BLM office in Riverside and not to your office and no regulations to cover non-interested parties, I felt at the time I was doing the correct thing.

The letter alleged to have been sent to the BLM District Office in Riverside reads as follows:

March 27, 1978

To Whom It May Concern:

On the March filing cards for all parcels that I, William Curtis, Michael Mericantante and Mr. Chuck Schwartzberg filed on, Mr. Chuck Schwartzberg has

informed me that he is not interested, so would you please eliminate his name from the cards.

Thanking You

/s/ Wm. R. Curtis

/s/ Michael Mericantante

/s/ Chuck Schwartzberg

P.O. Box 1318  
Fontana, CA 92335

A similar statement of reasons was submitted in reference to offer CA 5097. The letter adverted to in this statement reads as follows:

April 21, 1978

To Whom It May Concern:

Please eliminate the names of Chuck Drinkhouse and David Jarvis from the filing cards for April 1978.

Please advise me of any necessary forms to be filled out.

Thanking You

/s/ William R. Curtis

/s/ David Grindahl

/s/ David Jarvis

/s/ Chuck Drinkhouse

P.O. Box 1318  
Fontana, CA 92335

Each case file contains a statement by a BLM employee in the California State Office that, upon receipt of the appeals, investigation was made to find the letters of March 27 and April 21, allegedly mailed to the Riverside District Office, with negative results. There is no record that the BLM District Office, Riverside, ever received either letter. The fact that BLM has no record of either document indicates presumptively that BLM never received either. Charles J. Babington, 36 IBLA 107 (1978). We point out that neither of the alleged communications is specific as to what DEC are affected; there is no mention of the Parcels involved, nor even the State.

The governing regulation, 43 CFR 3102.7, provides:

A signed statement by the offeror that he is the sole party in interest in the offer and the lease, if issued; if not he shall set forth the names of the other interested parties. If there are other parties interested in the offer a separate statement must be signed by them and by the offeror, setting forth the nature and extent of the interest of each in the offer, the nature of the agreement between them if oral, and a copy of such agreement if written. All interested parties must furnish evidence of their qualifications to hold such lease interest. Such separate statement and written agreement, if any, must be filed not later than 15 days after the filing of the lease offer. Failure to file the statement and written agreement within the time allowed will result in the cancellation of any lease that may have been issued pursuant to the offer. Upon execution of the lease the first year's rental will be earned and deposited in the U.S. Treasury and will not be returnable even though the lease is canceled.

[1] Where an oil and gas lease offer filed on a drawing entry card in a simultaneous filing procedure contains the name of additional parties and the statements of interest, copy or explanation of the agreement among the parties, and evidence of the qualifications of the additional parties are not filed within the time required by 43 CFR 3102.7, the offer must be rejected. Verner F. Sorenson, 32 IBLA 341 (1977); Michael J. Radigan, 31 IBLA 58 (1977); Mildred A. Moss, 28 IBLA 364 (1977).

The regulation, 43 CFR 3110.1-4(b) provides that an applicant may withdraw his DEC prior to the drawing. We believe that this regulation is broad enough to permit amendment of a DEC by elimination of other parties in interest named in the DEC if, but only if, such amendment is received in the proper BLM office prior to the drawing to determine the priority of the DEC in the simultaneous oil and gas leasing program, and if the amendment gives adequate identification of the DEC affected. However, this is moot as no amendment of the subject DEC's for Parcels CA 35 or CA 44 was received by the California State Office prior to the drawing for these parcels. The rejection of the DEC lease offers because of noncompliance with the requirements of 43 CFR 3102.7 must be affirmed.

Appellant states in his reasons: "The reason for sending the letter to Riverside and not to Sacramento was that I assumed they would have all letters sent to the correct department, as I did not have this knowledge."

As the DEC in issue had been transmitted timely and properly to the California State Office in Sacramento, we are hard-pressed to give any credence to the appellant's statement that he did not know a letter relating to the DEC should also be sent to the State Office in Sacramento, instead of to the District Office in Riverside. One may even wonder if appellant, in truth, did file the DEC himself.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed.

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Douglas E. Henriques  
Administrative Judge

We concur.

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James L. Burski  
Administrative Judge

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Anne Poindexter Lewis  
Administrative Judge

